

National Standards Provide Guidance for Detention of Aliens

*by
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The U.S. Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service, is responsible for ensuring that detained aliens are provided with safe and humane conditions of confinement while their cases are in immigration proceedings and while they are awaiting repatriation to their home countries. The detention of aliens is not intended to be punitive but to ensure that they appear for their hearings and for their departure from the United States. Within ICE, the Office of Detention and Removal is responsible for the fiscal and physical monitoring of DHS's detention resources and operations.

During the 1990s, the Office of Detention and Removal experienced phenomenal growth in its detention operations; the average daily population has grown from about 5,000 in 1994 to more than 21,000 today. Fifty-five percent (55%) of these detainees are being held in some 320 local and state detention facilities and jails. It quickly became clear that greater oversight was needed to ensure that the rapidly growing detention program was meeting not only the legal obligations of the government but also the needs of the detainees, facility managers, and staff for safe, secure, and humane conditions of confinement. Therefore, in November 2000, 36 National Detention Standards were introduced.

The National Detention Standards are designed to identify a minimum level of custody and conditions of confinement acceptable to the ICE. The primary purpose of these standards is to provide uniform guidance regarding the detention, safety, and well being of detainees in our custody. Only facilities used in excess of 72 hours are required to meet the standards; facilities used to house detainees for fewer than 72 hours are expected to meet the majority of the standards, using modified guidelines.

The Jail Inspections Program

In 2001, the Office of Detention and Removal determined that its existing jail inspections program did not meet the changing needs of the detention program. The Detention Management Control Program (DMCP) was developed to provide a single method of inspecting all types of detention facility operations. The primary purpose of the DMCP is to prescribe policies, standards, and procedures to establish, maintain, evaluate, and improve detention operations and to ensure that they are operated under safe, secure, and humane conditions for both detainees and staff.

The DMCP consists of a series of events designed to assess detention facilities in a uniform manner, on a regular schedule, and with a focus on priority detention standards. Representatives from the Office of Detention and Removal headquarters and regional and district office staff meet annually to set priorities and identify standards to be revised, based on current trends and emerging issues. These priorities are then used to update the Review Guidelines, the documents that provide guidance for individual facility reviews.

A review of each detention facility is required annually. Once the annual assessment is completed, a schedule of facility reviews is published, and review teams are assembled. After a review is conducted at a facility, the review team produces a report whose results are given to the facility's Chief Executive Officer. The CEO is requested to provide a plan of action for addressing any deficiencies noted in the review.

Flexibility for Local Facilities

The Detention Management Control Program has developed two approaches to conducting detention reviews.

- Facilities owned and operated or exclusively contracted for ICE must meet both the policy and individual procedures of the National Detention Standards.
- Local and state Intergovernmental Service Agreement facilities must meet only the intent of the standards.

The National Detention Standards and the DMCP provide a general baseline approach to applying standards to the confinement of a detainee who is in federal custody. Staff reviewers are given a degree of latitude in determining if an individual detention facility has met the intentions of the standards. We recognize that various localities must meet their own state and local regulations and codes related to detention operations. Because the National Detention Standards do not dictate actual procedures for compliance, local facilities can use a variety of procedures to meet the standards' general intent.

A common misconception about the Immigration and Customs Enforcement review program is that any facility that is not fully compliant with the National Detention Standards is precluded from holding ICE detainees. In fact, facilities generally are precluded from housing ICE detainees only when conditions of

confinement are found to severely affect the welfare and well being of detainees and staff. The DMCP is structured to allow ICE field staff to work directly with providers to make any corrections needed to ensure continued partnerships between the Bureau of Immigration and Customs Enforcement and its Intergovernmental Service Agreement partners.

In 2002, more than 70% of ICE detention service providers received a rating of Acceptable or better. A significant number of identified deficiencies were related to a lack of written policy that supported existing practices within a detention facility.

More Partnership Sites Sought

We will continue to support partnerships with a combination of local and state detention programs to support the safe and secure detention of ICE detainees who are facing removal from the United States. We are always looking for additional locations and facilities that are able to meet our mission requirements.

Additional information related to the ICE National Detention Standards and the Detention Management Control Program is available online:

- Visit the ICE site at <http://www.bice.immigration.gov/graphics/immig.htm>.
- For information on the Office of Detention and Removals, see <http://www.immigration.gov/graphics/shared/lawenfor/interiorenf/custody.htm>.
- Or, refer directly to the Detention Operations Manual on our Web site at <http://www.immigration.gov/graphics/lawsregs/guidance.htm>. ■

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